

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 STRIKE 3 HOLDINGS, LLC,

11 Plaintiff,

12 vs.

13 JOHN DOE subscriber assigned IP address
14 68.78.200.245,

15 Defendant.

Case No.: 3:20-cv-07474-AGT

**[PROPOSED] ORDER ON EX PARTE
APPLICATION FOR LEAVE TO
SERVE THIRD PARTY SUBPOENA
PRIOR TO A RULE 26(f)
CONFERENCE**

[AS MODIFIED]

17 **THIS CAUSE** came before the Court upon Plaintiff's Ex Parte Application for Leave to
18 Serve a Third-Party Subpoena Prior to a Federal Rule of Civil Procedure 26(f) Conference (the
19 "Application"), and the Court being duly advised does hereby:

21 **FIND, ORDER AND ADJUDGE:**

22 1. Plaintiff has established that "good cause" exists for it to serve a third party
23 subpoena on AT&T Internet Services (hereinafter the "ISP"). *See UMG Recording, Inc. v. Doe*,
24 2008 WL 4104214, *4 (N.D. Cal. 2008); and *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d
25 1, 6-7 (D.D.C. 2008);

1 2. Plaintiff may serve the ISP with a Rule 45 subpoena commanding the ISP to
2 provide Plaintiff with the true name and address of the Defendant to whom the ISP assigned an
3 IP address as set forth on Exhibit A to the Complaint. Plaintiff shall attach to any such
4 subpoena a copy of this Order;

5 3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any
6 service provider that is identified in response to a subpoena as a provider of Internet services to
7 one of the Defendants;

8 4. If the ISP qualifies as a “cable operator,” as defined by 47 U.S.C. § 522(5),
9 which states:

10 the term “cable operator” means any person or group of persons
11 (A) who provides cable service over a cable system and directly or through one
12 or more affiliates owns a significant interest in such cable system, or
13 (B) who otherwise controls or is responsible for, through any arrangement, the
14 management and operation of such a cable system.

15 it shall comply with 47 U.S.C. § 551(c)(2)(B), which states:

16 A cable operator may disclose such [personal identifying] information if the
17 disclosure is . . . made pursuant to a court order authorizing such disclosure, if
18 the subscriber is notified of such order by the person to whom the order is
19 directed.

20 by sending a copy of this Order to the Defendant; and

21 5. Plaintiff may only use the information disclosed in response to a Rule 45
22 subpoena served on the ISP for the purpose of protecting and enforcing Plaintiff’s rights as set
23 forth in its Complaint.

24 6. **[Modified]** Any information disclosed by the ISP regarding Defendant’s identity
25 shall be treated as confidential.

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1 **IT IS SO ORDERED.**

2 Dated: January 12, 2021

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ALEX G. TSE
United States Magistrate Judge